(20)

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. 1336 of 2005

CORAM: Hon'ble Shri S.R. Nayak, CJ
& Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Appellants Claimants
: 1. Kunju Nishad, aged about 46 years, S/o Late Shri Gang Ram Nishad
: 2. Smt. Basantin Nishad aged about 44 years W/o Shri Kunju Nishad

Both R/o Village - Bahesar, Post Sondara, Police Station - Dharsiwa, Raipur, District - Raipur (C.G.)

Versus

Respondent Non-claimants
: 1. Mehtab Khan S/o Tayab Khan, R/o - present R/o-M.G. Market, G.E. Road, Bhilai, District - Durg (C.G.)
: 2. Narendra Singh S/o Swarn Singh, R/o - M.G. Market, G.E. Road, Bhilai District-Durg (C.G.)
: 3. The Oriental Insurance Company Limited, through Divisional Office, Divisional Manager, Kutchery Chowk, Raipur, District-Raipur (C.G.)

Shri Shivendu Pandya, Counsel for the appellants.
Shri Prashant Jaiswal, Sr. Advocate with Shri Ali Asgar, counsel for the Insurance-Company.

ORAL ORDER
(Passed on 17th January, 2006)

The following oral order of the Court was passed by S.R.NAYAK, C.J.

In this appeal preferred by the parents of the deceased, what is contended is that on the date of the accident i.e. 24.02.2004, the father was aged 56 years and the mother was aged 44 years, and therefore, multiplier 15 ought to have been applied for assessing 'loss of dependency' taking the average age of the parents whereas the

Motor Accidents Claims Tribunal (M.A.C.T.) has wrongly applied multiplier 13 for that purpose. It was also contended that what is awarded towards 'loss of filial love' and 'loss of estate' is very much on lower side.

2. We find force in the contentions of the learned counsel for the appellant. The learned M.A.C.T., it appears, has taken into account the age of the father as on the date he gave evidence before the M.A.C.T. and not the average age of the parents as on the date of accident. As on the date of accident, the father was aged 56 years and the mother 44 years, is not seriously disputed. If this is the factual position, the appropriate multiplier which ought to have been applied for assessing 'loss of dependency' is multiplier 15. Taking into account the average age of the parents, if we apply multiplier 15, the 'loss of dependency would come to Rs.1,80,000/- and we award accordingly.

3. As we held and reiterated in umpteen number of decisions, the compensation to be awarded under the conventional heads too should reflect time and place of the accident and the current money value and it cannot be static for all the times. The M.A.C.T. cannot be justified in awarding the compensation at the same rates under the conventional heads which they used to award decades back. In that view of the matter, we award a sum of Rs.20,000/- towards 'loss of filial love', Rs.20,000/- towards 'loss of estate' and Rs.2,000/- towards funeral expenses.

4. In the result and for the foregoing reasons, we allow the appeal in part and in substitution of the impugned award, we award total compensation of Rs.2,22,000/- under the following heads:

(i)	Loss of Dependency	:	Rs.1,80,000/-
(ii)	Towards 'loss of filial love'	:	Rs.20,000/-
(iii)	Towards 'loss of estate'	:	Rs.20,000/-
iv)	Towards funeral expenses	:	Rs. 2,000/-
	Total:	:	Rs.2,22,000/-

with interest at the rate of 7% per annum from the date of claim petition till payment.

5. The Insurance-Company shall deposit the balance compensation within 6 weeks from today. On such compensation being made, the M.A.C.T. shall invest/disburse the compensation money in the same proportions, if any, as specified by it in the impugned award.

6. The arties shall bear their respective costs in this appeal.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

Anjani